

STATE OF VERMONT

In re) Fair Hearing No. A-06/08-243
)
 Appeal of)

INTRODUCTION

The petitioner appeals a decision by the Department for Children and Families, Economic Services Division, denying her application for Reach Up Financial Assistance (RUFA) benefits.¹ The Department based their decision on information that there were no minor children in the household.

The Department filed a Motion for Summary Judgment asking that petitioner's claim be dismissed. The Department's motion is being considered as a Motion to Dismiss based on petitioner's failure to prosecute her fair hearing.

DISCUSSION

Petitioner applied for RUFA benefits on or about April 28, 2008 alleging that there were three minor children in her household. Petitioner's three minor children were (and

¹ Petitioner had also appealed a General Assistance denial as part of this case. But, petitioner was subsequently granted General Assistance making that portion of the appeal moot.

continue to be) in the custody of the Department for Children and Family, Family Services Division.

Petitioner was denied RUFA benefits on or about June 2, 2008 because there were no eligible minor children in her household. Although petitioner had visitation rights with her minor children and the Family Service Division goal was family unification, petitioner's visitations with her children did not rise to the level necessary under the regulations to be considered in her household. Welfare Assistance Manual (W.A.M.) § 2242. The Department based their decision upon information supplied by the Family Services Division and petitioner.

Petitioner filed for a fair hearing on or about June 4, 2008. The case was initially scheduled for fair hearing on July 16, 2008. Petitioner obtained legal representation. Petitioner's legal representative appeared on July 16, 2008 although petitioner did not appear. The Department gave copies of petitioner's case file to the legal representative. The matter was reset for a telephone status conference on July 29, 2008. Petitioner's legal representative has not received cooperation from her client and is unable to pursue a factual hearing. It should be noted that in eligibility cases, the burden of proof is on the petitioner to establish

that she meets program criteria. Petitioner has failed to move forward with her case.

It should also be noted that petitioner may reapply in the future once she can demonstrate that her minor children will be in her physical custody within the next thirty days.

ORER

The Department's Motion to Dismiss is granted.

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